



AMERICAN COUNCIL OF THE BLIND

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF:

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IN RE:

WT Dkt. No. 96-198; Implementation of Section 255 of the
Telecommunications Act of 1996

Before The:

FEDERAL COMMUNICATIONS COMMISSION
Office of the Secretary
Room 222
Washington, 20554
www.fcc.gov/e-file/ecfs.html

This 30th Day of June, 1998:

1.

The American Council of the Blind (ACB) is the leading national organization of blind women and men in the United States, with seventy affiliate organizations and members in every state. ACB strives to increase the independence, security, equality of opportunity, and quality of life for all blind and visually impaired people.

2.

ACB is pleased to provide comment on the Federal Communications Commission's (FCC) proposed rules on the implementation of Section 255 of the Telecommunications Act of 1996.

3.

ACB applauds the FCC for issuing proposed rules to implement Section 255 of the Telecommunications Act of 1996. Increased access to telecommunications equipment is critical to expanding employment, educational, and recreational opportunities for individuals who are blind and visually impaired. We urge the FCC to adopt the suggestions contained in these comments so that our needs are fully considered in the design, development, and fabrication of telecommunications products and services.

4.

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Blind and visually impaired Americans, even more so than their sighted contemporaries, depend upon a broad range of sophisticated telecommunications equipment to read and write printed documents, manage their personal affairs and engage a myriad employment opportunities. Similarly, individuals who are blind rely upon electronic communications devices in the classroom, office and home to facilitate effective communication between themselves and the people around them; examples include a blind student working with a computer in the classroom, a blind parent using an electronic Braille computer to keep track of doctors appointments and a blind business vendor who uses a talking calculator to total his receipts. Not unlike the broader population, blind and visually impaired individuals rely upon the tools of modern life.

5.

Although many interests in the telecommunications industry have furnished examples of improved accessibility for people **with** disabilities and have used these to buttress their contention that voluntary efforts on the part of industry obviate the need for regulations, the consistent and unanimous call for regulations by the disability community is evidence that voluntary efforts have not been adequate to achieve satisfactory results. The very enactment of Section 255 itself was a response to the historic failure of industry to consider the needs of individuals with disabilities in the design of telecommunications products and services. At the same time that Congress was substantially deregulating the telecommunications industry with the Telecommunications Act of 1996, Congress elected to impose new regulations where disability access is concerned because of the failure of the marketplace to ensure disability access.

6.

Most of the telecommunications products on the market today contain print labels, touch screens, or visual displays with no corresponding tactile or audible information so that they are not usable by people with vision impairments. Graphic-based communications systems, on-line information services, and even telephone answering devices are imposing communications and information barriers for blind people more than ever before, restricting employment options, decreasing personal independence, and interfering with trade and commerce. Simple information such as residential and business telephone directories, item numbers and order telephone numbers for home shopping are still displayed in visual, print displays only, precluding blind people from accessing them. Vital public information such as storm warnings and community service information are still displayed across the bottom of the television screen **with** no corresponding audible announcements. These are just a few examples of inaccessible products and services. Many of these are inexpensive, easy-to-solve barriers that industry has refused to rectify voluntarily. Clear, uniformly applied regulations are the only means by **which** the telecommunications industry will make its services and products accessible to blind people. The fact that some providers have voluntarily and successfully undertaken to include disability access features in their products and services is evidence of just how readily achievable disability access is--not evidence that those who have not made accessibility efforts will voluntarily undertake to do so at some time in the **future**.

7.

ACB strongly urges the Commission to adopt the Section 255 guidelines which were issued by the Architectural and Transportation Barriers Compliance Board (Access Board) on February 3, 1998. Congress had given the Access Board the primary authority to draft those

guidelines, **which** should now be enforced by the FCC. Although the Access Board guidelines apply to equipment manufacturers, we recommend that the FCC apply these as well to service providers. The guidelines are comprehensive, and are the product of the Telecommunications Access Advisory Committee, which consisted of representatives **from** both consumer and industry organizations. In addition to the guidelines on achieving accessibility, we especially urge the FCC to adopt and enforce the following guidelines for both service providers and equipment manufacturers: a) Where market research on products or services is performed, individuals who are blind or visually impaired should be included in the populations researched; b) Where product design trials and pilot demonstrations are conducted, individuals who are blind or visually impaired should be included in these activities; c) Reasonable efforts should be made to validate access solutions through testing with individuals who are blind or visually impaired or related organizations; d) Manufacturers and service providers should be required to provide access to product and service information and documentation on products and services and their accessibility features, including information contained in user and installation guides. To the extent that such information is made available to the general public, it should be made available in accessible formats, i.e., Braille, large print, electronic text, or other modes upon request, at no extra charge. Manufacturers should also include the name and contact means for obtaining information about (i.) accessibility features and (ii.) how to obtain documents in alternate formats, in general product information.

8.

The Access Board guidelines make clear that in addition to covering new products, Section 255 covers existing products that “undergo substantial change or upgrade, or for which new releases are distributed.” The changes to which this statement refers are those that affect the functionality of the product, rather than cosmetic changes. It is critical for both manufacturers and service providers to consider disability access as they make substantial changes or upgrades to their public offerings.

9.

The Access Board’s guidelines do not permit manufacturers to make changes that reduce access to products. This is intended to ensure that individuals with disabilities are not forgotten, as improvements and upgrades to products and services are performed. It is critical for the FCC to adopt this guideline so that individuals who are blind or otherwise disabled are not treated as second class consumers. Although we do not want to stifle innovation, we want to ensure that where improvements are made to products and services, the access function will be maintained. While we understand that the form of achieving access may need to change, there must be some assurance that some means of effective access continues to be available.

10.

The FCC’s proposed rules say that software will be covered only if the software is included with a telecommunications product. If it is marketed separately, the FCC has proposed that it not be covered by Section 255. The American Council of the Blind opposes this interpretation of Section 255. Rather, so long as software has functions that are integral to the provision of telecommunications, it should be covered under the FCC’s new rules. This would be consistent with the Access Board guidelines which cover **software**, hardware, or firmware that are integral to telecommunications and CPE equipment, as well as **functions** and features built into the product

and those provided **from** a remote server over a network.

11.

ACB supports the FCC's decision to require an assessment of accessibility and compatibility for each product. This is what Section 255 requires, and as stated in the Access Board guidelines, the assessment as to whether access can be achieved "cannot be bypassed simply because another product is already accessible." Rather, the goal of Section 255 is to achieve, where readily achievable, universal design for as many disabilities as possible. Only if that is not achievable, then is it reasonable to view the overall accessibility of the provider's products or services to determine how other functionally similar products and services can be made accessible.

12.

ACB is deeply concerned that enhanced services may not be covered under the FCC's new rules. The Telecommunications Act of 1996 emphasized the need to bring all the citizens of our country the benefits of advanced telecommunications technologies. The purpose of Section 255 was to ensure that this objective would be achieved for individuals with disabilities. This objective will be defeated if we are only provided with access to little more than basic telephone service. Voice mail, interactive telephone prompt systems, and Internet telephony have already become mainstream services and are critical to successfully participating and competing in our economy and society. These services must be made accessible if the true intent of Section 255 - to achieve universal telecommunications access - is to be realized. Individuals who are blind or visually impaired are especially dependent upon electronic and **internet** information services for such things as reading newspapers, checking account balances and researching facts and other information. ACB urges the FCC to reject the notion that a blind person's use of the Internet to read the newspaper is an "enhanced service".

13.

Under Section 255, manufacturers must make their products accessible or Compatible if it is readily achievable to do so. The "readily achievable" language is from the Americans with Disabilities Act (ADA) and involves a balancing of the nature and costs of including an access feature with the overall financial resources of the covered entity (and the resources of its parent corporation, where applicable). We accept the FCC's suggestion that technical feasibility also may be considered in determining whether access to a product or service can be achieved. However, we oppose considering the extent to which an accessible product can be marketed (when compared to inaccessible products), and the extent to which the costs of providing access will be recovered, in readily achievable determinations. These are not permissible factors under the ADA, and should not be included in a readily achievable analysis under Section 255. ACB urges the FCC to consider the "costs" to millions of individuals who are blind, visually impaired or otherwise disabled when their full access to our economy and society is severely limited by their non-access to telecommunications products and services.

14.

the American Council of the Blind is confused by the FCC's proposed complaint process, especially with respect to when an individual has the right to move **from** the "fast track" to the "informal" or "formal" complaint processes, or when a complaint would be moved to an

alternative dispute resolution process. We request clarification of these points in the final rules, so **that** consumers may fully understand the means available to seek redress under Section 255. Additionally, we adamantly oppose a rule that would require consumers to first receive approval from the FCC before being permitted to bring a formal FCC complaint. This is not a requirement for other formal complaints brought before the Commission and appears to be discriminatory against individuals with disabilities.


15.

ACB supports the following FCC proposals concerning consumer complaints: a) There should be no filing fees for informal or formal complaints, and fees that currently exist for filing complaints against common carriers should be waived for complaints brought under Section 255. Waiving these fees would promote the public interest; b) There should not be any time limit for filing complaints, because one never knows when he or she will discover that a product or service is inaccessible; c) Consumers with disabilities should be able to submit complaints in Braille, audio cassette or by any accessible means available; d) Manufacturers and service providers should be required to establish contact points in their companies that are accessible to consumers with disabilities.

16.

The American Council of the Blind thanks the FCC for the opportunity to submit these comments, and urges the FCC to act promptly in issuing rules that will fully ensure telecommunications access by individuals who are blind, visually impaired, or otherwise disabled.

Respectfully submitted,


D. Alfred Ducharme
Director of Governmental Affairs
American Council of the Blind